

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

**IN RE: AME CHURCH EMPLOYEE
RETIREMENT FUND LITIGATION**

MDL Docket No. 1:22-md-03035-
STA-jay
ALL CASES

Honorable S. Thomas Anderson

**JOINT STATUS UPDATE IN ADVANCE OF
JUNE 25 STATUS CONFERENCE**

At the initial status conference in this matter, the Court requested that the Parties provide a joint update on the status of litigation seven days before each status conference. [ECF No. 69]. In advance of the June 25, 2024 status conference, the Parties report as follows:

I. Procedural Overview Since the May 3, 2024 Status Conference

There is one pending motion. That motion is a motion to compel nine depositions of Symetra witnesses that was filed by the AME Church Defendants [ECF No. 415]. The Court has referred this motion to the Magistrate [ECF No. 416]. Responses to the motion to compel are due June 21, 2024.

In addition to the pending motion, there remain several ongoing disputes among the parties related to depositions and document productions that, if not resolved, may result in additional motions to compel in the next week or two.

As forecast at the last status conference, the Plaintiffs have also circulated an

amended complaint to the Defendants to obtain their respective positions on whether they will oppose Plaintiffs' request for leave to amend their complaint. Plaintiffs have requested that the Parties let Plaintiffs know their respective positions on or before June 21, 2024.

The Parties are thoroughly engaged in discovery, as detailed below. Despite their diligent efforts to complete depositions and discovery before the upcoming July 20 deadline, the Parties are finding themselves unable to complete discovery by that deadline and would like to discuss a 60 day extension of the remaining deadlines in this case at the June 25 status conference. Additionally, Newport and Symetra are in the process of evaluating Plaintiffs' proposed amended complaint and their respective positions on Plaintiffs' forthcoming motion for leave to amend. Given the new theories of the case and causes of action asserted against Newport and Symetra in the proposed amended complaint, if the Court ultimately grants the motion for leave to amend, Newport and Symetra would like to discuss revisiting the scheduling order and an extension of longer than 60 days.

The Parties also want to make the Court aware that Dr. Harris passed away on May 8, 2024.

II. Status of Discovery

Discovery commenced on September 9, 2022. [ECF No. 78, p. 2].

a. Written Discovery

Plaintiffs served discovery requests on most Parties the first day discovery commenced and served all Parties that made an appearance after that by the end of

September.

Symetra served discovery requests on the AMEC Defendants in May of 2023, which the AMEC Defendants responded to in June of 2023. Symetra and AMEC are currently engaged in discussions regarding the completeness of AMEC's document productions in response to these requests. Symetra also served discovery requests on Plaintiffs, Defendant Eaton, and Defendant Harris on June 30, 2023. Defendant Harris responded to Symetra's requests on July 28, 2023. Defendant Eaton served his responses on August 11, 2023, and Plaintiffs served their responses on August 31, 2023. Symetra and Plaintiffs are currently engaged in discussions regarding the completeness of Plaintiffs' document productions in response to Symetra's requests and Symetra's document production in response to Plaintiffs' requests.

Newport served requests for production on Plaintiffs in May of 2023. Plaintiffs served their written responses and objections to those requests on June 21, 2023. Newport also served the AMEC Defendants with requests for production in May of 2023. The AMEC Defendants served their written responses and objections to those requests on July 20, 2023. Newport served additional requests for production on the AMEC Defendants on March 29, 2024. The AMEC Defendants served written responses and objections to those requests on May 1, 2024, but have not yet completed their production of responsive documents. Newport also served requests for production on Rodney Brown on April 19, 2024. As of the date of this update, Rodney Brown has produced certain documents in response to those requests and represented that certain other responsive documents have been provided to law enforcement;

Newport is in the process of conferring with Mr. Brown regarding the production of responsive emails. Plaintiffs are currently engaged in discussions regarding the completeness of Newport's document production in response to Plaintiffs' requests.

AMEC Defendants served written discovery requests to Jerome Harris on June 16, 2023; Harris served responses on July 24, 2023. Plaintiffs understand that additional documents possessed by Dr. Harris were seized as part of a related criminal investigation. Plaintiffs have recovered these 852 documents from AMEC, which were produced by AMEC on October 19, 2023 (and are not included in the chart below). Plaintiffs also produced four boxes of documents that were produced in hard copy by the Motorskill defendants. On May 15, 2024, Defendant Financial Freedom Group, Inc. served Plaintiffs with its First Requests for Production of Documents. Plaintiffs timely responded on June 14, 2024.

The Parties have been producing documents, with the following having been produced to date:¹

Defendant	Date of Production	Number of Documents Produced
AME Church	4/29/2023	617
	2/23/2024	39
	3/25/2024	17
	4/15/2024	3
	4/30/2024	161
	5/01/2024	3
Robert Eaton	12/13/2022	711
Dr. Jerome Harris	12/28/2022	21
	2/28/2023	4
	7/24/2023	5

¹ A small number of additional documents were produced under Rule 408 of the Federal Rules of Evidence and may not have been produced to all Parties in this litigation. Those documents are not identified in this chart.

	6/12/2024	1,122
Symetra Life Insurance	1/5/2023	889
	2/8/2023	5
	3/17/2023	51
	4/12/2023	1,465
	6/29/2023	4,439
	11/17/2023	90
	3/18/2024	23
	4/10/2024	400
	4/18/2024	28
Newport Group	1/31/2023	667
	2/1/2023	5
	3/7/2023	5
	3/31/2023	1,157
	6/2/2023	6,009
	7/5/2023	5,472
	3/27/2024	1,633
Plaintiffs ²	9/1/2022	884
	6/21/2023	217

While the Parties have been diligently engaged in written discovery, Symetra and Newport are concerned about the fact that numerous requested documents have still not been produced, including: (1) Rodney Brown's emails related to his audits; (2) the AMEC documents identified during the site inspection of the offices of the AMEC Department of Retirement Services and in the depositions of multiple AMEC witnesses, including, among others, documents from an electronic server at the Department and documents from Dr. Harris's former computer; (3) various meeting minutes and notes from the AMEC General Board, the Commission on Retirement Services, and the Department of Retirement Services; (4) certain annual reports from

² This reflects the cumulative number of pages, rather than unique documents, produced by all Plaintiffs.

the Department of Retirement Services; and (5) the report from the investigation of the retirement plan conducted by Gregory Terrell. In addition to these unproduced documents, Symetra and Newport have been conferring with AMEC concerning certain written discovery issues, such as, AMEC's objections to searching for and producing documents from email accounts that certain Bishops and employees used for Church business. The parties have made some progress on this issue and are continuing to meet and confer; it is not yet clear whether a motion to compel will be necessary.

Additionally, Symetra has been meeting and conferring with Plaintiffs about the production of Plaintiffs' privilege log and documents related to (1) discussions and agreements between Plaintiffs' counsel and AMEC's counsel, and (2) documents reflecting or concerning government investigations related to the AMEC retirement plan. The parties are making progress on these issues and are continuing to meet and confer; it is not yet clear whether a motion to compel will be necessary.

To that end AMEC issued a discovery deficiency letter to Symetra on June 4, 2024. Symetra responded on June 11, 2024. Symetra and AMEC are going to meet and confer on these issues, but it seems that a motion to compel is imminent. Additionally, AMEC will be serving additional written discovery on Symetra and Newport this week.

Finally, as discussed below, per the Court's guidance at the last status conference, Symetra has intervened in Jarrod Erwin's bankruptcy proceeding in an attempt to get access to numerous documents related to the Motorskill entities that

Plaintiffs previously obtained in the bankruptcy.

b. Third-Party Discovery

Plaintiffs have also engaged in discovery of third parties and have sent subpoenas to the following individuals/entities:

Subpoenaed Party	Date of Service	General Documents Sought	Number of Documents Produced
Dr. Richard Allen Lewis	12/7/2022	documents related to AME's finances	0
Gregory Terrell & Company	12/8/2022	documents related to audit of AME's retirement fund after Dr. Harris's retirement	0
Day & Night Solar	12/8/2022	documents related to investments and transactions with AME's retirement fund	24
Hoskins & Company	12/8/2022	documents related to audit of AME's retirement fund after Dr. Harris's retirement	0
Deutsche Bank Securities	3/27/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton	81
J.P. Morgan Securities, LLC	5/30/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton	1,214 ³
Regions Bank	3/7/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton	765
Truist Bank	3/10/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton	827

³ This refers to the number of pages in the production, rather than the unique number of files.

UBS Financial	3/9/2023	bank account records related to entities controlled by Dr. Harris and/or Robert Eaton and/or Motorskill entities	0
CBiz, Inc.	May 2, 2023	accounting and corporate records related to entities controlled by Dr. Harris and/or Robert Eaton	431

The Parties are evaluating whether to send any additional subpoenas to any of these third-parties or any new third-parties.

c. Depositions

The Court entered an Order Establishing Guidelines for Depositions [ECF No. 343] on February 28, 2024. The Parties have complied with that Order but, because of the significant number of depositions and the numerous parties and counsel involved, the Parties have had to accommodate multiple scheduling issues for counsel and witnesses and have been unable to schedule depositions wholly consistently with the plan approved by the Court. [ECF No. 343, ¶ 4]. There have also been several depositions that the Parties have not been able to complete in one day and the Parties are working together to schedule the conclusion of those depositions. There also remain several additional depositions to be scheduled, such as Rule 30(b)(6) depositions of several of the Parties, and the Parties are working together to schedule those. Due to the Parties' respective scheduling conflicts for the remaining depositions that need to still be scheduled, along with the depositions currently in dispute, the Parties would like to discuss a 60-day extension of the remaining deadlines in this case with the Court at the status conference.

The Parties have taken twenty-eight depositions so far, with one more scheduled before the status conference. All of the Plaintiffs will have been deposed before the status conference. Attached as **Exhibit A** to this report is a chart showing the status of depositions taken and scheduled. There are also a number of depositions that have not yet been scheduled and are not reflected in the chart.

To summarize, the Parties first deposed Christopher Harris, Dr. Jerome Harris's son and a longtime employee of the AMEC Retirement Department, on January 29, 2024 in Memphis, TN. The Parties then conducted an initial Rule 30(b)(6) deposition of AMEC on February 7, 2024 in Nashville, TN, focused on corporate structure and document retention. On February 7, 2024, AMEC designated a second witness on the Parties' initial 30(b)(6) topics and the deposition was continued to February 21, 2024. In between these two dates, the Parties deposed Gloria Peterson on February 9, 2024 in Huntsville, AL. Ms. Peterson was Dr. Jerome Harris's executive assistant from 2008 through his retirement in 2021. The Parties also deposed three AMEC bishops James Davis (on March 5), Samuel Green (on March 21), and Clement Fugh (on March 22), each in Atlanta, GA. Symetra and Newport contend that Bishop Davis's deposition requires additional time to complete, while Plaintiffs objected to continuing the deposition to a second date; the issue has not yet been resolved.

In April, the Parties first deposed two Newport employees, John Combes and David Fiszer, on April 3 and 4, respectively, in Chicago, IL. The Parties deposed Symetra employee Jared Crapson on April 9. The Parties then deposed three

Plaintiffs, Revs. Reuben Boyd and Derrell Wade on April 17 and 18, respectively, in Richmond, Va, and Rev. Diane Conley on April 19 in Charlotte, NC. The Parties next took the depositions of Irven Wright, a longtime employee of the AMEC Department of Retirement Services and of Dr. James Miller, the current executive director of the AMEC Department of Retirement Services. Those depositions occurred on April 23 and 24, respectively, in Memphis. Dr. Miller's deposition requires additional time to complete, which the Parties agreed would be completed remotely on a later date with a three hour time limitation, but the Parties have not yet scheduled that date.

Just before the last status conference, the Parties deposed Dr. Richard Allen Lewis, the long-time and now retired CFO of the AME Church, and Jim Daniel, a former Symetra employee on May 1 and 2, respectively, in Nashville. On May 13, Plaintiff Jackson was deposed in Orlando, Florida. The Parties then deposed Mark Yahoudy, a long-time Newport employee in Chicago on May 23, and began the deposition of Defendant Rodney Brown on May 24, but recessed it shortly after it began to allow Mr. Brown the opportunity to engage counsel. The Parties are in contact with Mr. Brown's new counsel about scheduling a time to reconvene Mr. Brown's deposition. The following day, Plaintiffs King and Pearce Ewing were both deposed in Jacksonville, Florida. Plaintiff Alexander was then deposed on May 28 in Washington, D.C. The Parties then deposed former Symetra employee Scott Bartholomaeus in Indio, California on May 29, as well as former Symetra employees Bob Follette and Kathy Hastings on June 5 and 6, respectively, in Seattle, Washington. Mr. Follette's deposition was not able to be completed on June 5, and

the Parties agreed to coordinate availability and reconvene. Plaintiffs Matthew Ewing and Elder Russ were then deposed in Pensacola, Florida on June 11. Next, the Parties deposed longtime Newport employee Dennis Kass in Chicago on June 13. The final Plaintiff, Rev. Carmichael will be deposed in Raleigh, North Carolina on June 20.

The Parties have two more depositions scheduled to occur after the status conference: a Rule 30(b)(6) deposition of Defendant Financial Freedom Group, and a deposition of Defendant Bob Eaton. The Parties are also in the process of conferring about the scheduling of the continued depositions of Bishop Davis, Dr. Miller, Rodney Brown, and Bob Follette; the new deposition of Marcus Henderson; and the 30(b)(6) depositions of Newport, Symetra, and AMEC.

Additionally, Newport has been conferring with AMEC to try to reach agreement on scheduling three AMEC witnesses that AMEC has declined to make available for depositions: Bishop White, Bishop Cousin, and Bishop Ingram. The parties appear to have reached an impasse on this issue, and Newport anticipates filing a motion to compel the depositions.

d. Issue Pertaining to Dr. Harris's Document Production

Until last week, Dr. Harris had produced a total of 30 documents in this matter. AMEC also produced 852 documents that were apparently seized from Dr. Harris as part of a related criminal investigation. Plaintiffs and Symetra both independently raised concerns and conferred with Dr. Harris's counsel about adequacy of these productions. As a result of these discussions, on June 12, 2024, Dr.

Harris's counsel produced 1,122 additional documents from Dr. Harris's personal email account. The Parties are still reviewing this production and conferring with Dr. Harris's counsel as to whether this resolves the Parties' respective concerns.

III. Erwin Bankruptcy Proceedings

Plaintiffs and AMEC remain engaged in adversary proceedings against Jarrod Erwin. Plaintiffs' complaint focuses on the dischargeability of debt. AMEC has asserted claims against Jarrod Erwin in addition to asserting the dischargeability of debt. Those proceedings are currently in discovery with trial dates set for October 2024 and August 2024, respectively.

On June 6, 2024, Symetra filed an amended motion for relief from the stay to seek production by Jarrod Erwin of the Motorskill documents that may be in his possession, custody, or control. The deadline for Parties to respond to that Motion is July 2, 2024, and a hearing is scheduled on the Motion for July 9, 2024.

IV. Mediation Efforts

As discussed at earlier status conferences, Plaintiffs, AME Church, the Eaton Defendants, Newport, Symetra, and Dr. Harris agreed to engage in an early mediation with the Hon. Justice Janice M. Holder (Ret.). That mediation occurred on February 6, 2023. A second mediation between Plaintiffs and the AMEC Defendants occurred on May 4, 2023. While the Parties do not have any additional mediation sessions scheduled at this time, Plaintiffs believe that the deposition testimony so far has clarified the issues in the case to the extent that another mediation session in the near future could be productive.

V. Proposed Schedule for Future Status Conferences

The Court has already scheduled the next two status conferences for August 16, 2024 and October 16, 2024, respectively. The Parties propose that the Court continue scheduling future status conferences approximately every sixty days, with a remote attendance option (either by telephone or video-conferencing) for Parties that are unable or may not need to attend each status conference in person so as to limit the costs and burdens associated with attending each conference. The Parties propose the next status conference be scheduled now, to occur during the week of December 16, 2024.

VI. Conclusion

The Parties appreciate the Court's diligent management of this matter and welcome the opportunity to address any additional matters the Court would like to discuss at the June 25, 2024 status conference.

Respectfully submitted this the 18th day of June, 2024.

/s/ Matthew E. Lee

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